

DAVID J. TSAI (SBN 244479)
david.tsai@pillsburylaw.com
JOHN J. STEGER (SBN 341299)
john.steger@pillsburylaw.com
PILLSBURY WINTHROP SHAW PITTMAN LLP
Four Embarcadero Center, 22nd Floor
San Francisco, CA 94111-5998
Telephone: 415.983.1000
Facsimile: 415.983.1200

Attorneys for Plaintiff
Xiamen Zhaozhao Trading Co., Ltd.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

Xiamen Zhaozhao Trading Co., Ltd.

Plaintiff,

V.

Ningbo Jiangbei Shangyu Trading Co., Ltd.,

Defendant.

Case No.

COMPLAINT FOR:

**(1) INFRINGEMENT OF U.S.
PATENT NO. D958,465**

DEMAND FOR JURY TRIAL

1 Plaintiff Xiamen Zhaozhao Trading Co., Ltd. (“Zhaozhao” or “Plaintiff”) hereby asserts the
2 following claims for patent infringement against Defendant Ningbo Jiangbei Shangyu Trading Co.,
3 Ltd. (“Defendant”), and alleges as follows:

4 **NATURE OF THE ACTION**

5 1. This is a civil action for patent infringement under the patent laws of the United
6 States, 35 U.S.C. § 1 *et seq.*

7 2. This action arises from Defendant’s infringement of U.S. Design Patent No.
8 D958,465 (“the ’D465 Patent” or “the Asserted Patent”).

9 3. A copy of the’D465 Patent is attached as Exhibit A.

10 **THE PARTIES**

11 4. Zhaozhao is a company organized and existing under the laws of China, with its
12 principal place of business at Unit 01-170, 5/F, No. 32 2nd East Haijing Road, (Bonded Port Area),
13 Xiamen Area of Pilot Free Trade Zone (Fujian) of China, China.

14 5. On information and belief, Defendant is a company organized and existing under
15 the laws of China, with its principal place of business at Tongji Road 199, Room 5-1-15, Jiangbei,
16 Ningbo, Zhejiang, 315155 China.

17 **JURISDICTION AND VENUE**

18 6. This is a civil action for patent infringement arising under the patent laws of the
19 United States, 35 U.S.C. § 1 *et seq.*

20 7. This Court has subject matter jurisdiction over the matters asserted herein under 28
21 U.S.C. §§ 1331 and 1338(a).

22 8. Defendant is subject to this Court’s personal jurisdiction as it has committed acts
23 giving rise to this action within and/or directed to this District and has established minimum
24 contacts within this District such that the exercise of jurisdiction over Defendant would not offend
25 traditional notions of fair play and substantial justice. On information and belief, Defendant is
26 systematically directing business activities at consumers in the United States, including California,
27 through online platforms such as Amazon.com, through which consumers in the United States,
28

1 including California, can view, place orders for, and purchase Defendant's infringing products for
2 delivery in the United States, including California.

3 9. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 as Defendant
4 is a foreign corporation and is subject to personal jurisdiction in this district.

5 **THE ASSERTED PATENT**

6 10. On July 19, 2022, the USPTO duly and legally issued the 'D465 Patent entitled "pet
7 house".

8 11. The 'D465 Patent is valid and enforceable.

9 12. Zhaozhao is the sole assignee and owner of all right, title, and interest in and to the
10 'D465 Patent.

11 **BACKGROUND**

12 13. Zhaozhao's innovative products include an innovative line of cat houses, which
13 Zhaozhao markets and sells in the United States through its online business Rockever.

14 14. Zhaozhao developed its innovative line of cat houses to be both durable and
15 attractive, while at the same time, providing cats with ample space to lounge, hide, and play.

16 15. Prior to Zhaozhao's innovative line of cat houses, most cat houses on the market
17 were relatively small and did not provide cats with sufficient space and did not have multiple levels
18 or enclosed spaces.

19 16. Due to the large size of Zhaozhao's cat houses, they are designed to be used
20 outdoors. Because of this, Zhaozhao spent considerable time and effort developing cat houses that
21 are both durable for outdoor use and attractive. The effort put in to developing the design has
22 resulted in a cat house which does not look out of place in a customer's property, such as a front or
23 back yard, porch, or deck.

24 17. Zhaozhao has protected its innovative products and designs through intellectual
25 property rights, including through design patents issued by the United States Patent and Trademark
26 Office.

27 18. The 'D465 Patent is practiced by a Rockever product. A true and correct screen
28 shot from Amazon.com showing this product is attached as Exhibit B.

19. Since Zhaozhao began selling its innovative line of cat houses, its design has been copied by numerous companies, including Defendant, who sells cat houses which look just like those sold by Zhaozhao.

20. On information and belief, Defendant sells its infringing cat houses under the name Phupaw. True and correct screenshots showing Defendant's infringing products for sale on Amazon.com are attached as Exhibit C.

COUNT 1: INFRINGEMENT OF THE 'D465 PATENT

21. Zhaozhao alleges and incorporates by reference the allegations set forth in Paragraphs 1 through 20.

22. As shown in the side-by-side comparison below, Defendant has misappropriated Zhaozhao's patented pet house design.

¹ Image taken from listing on Amazon.com: <https://www.amazon.com/Phupaw-Outdoor-Shelters-Outside-Waterproof/dp/B09H5F4PMS> (last checked August 17, 2022).

23. Defendant's product is deceptively similar and substantially the same as the patented design of the 'D465 Patent when viewed through the eyes of the ordinary observer and considering the infringing product as a whole.

24. Defendant's unauthorized use, offer for sale, sale, and importation into the United States of its product during the term of the 'D465 Patent infringes the 'D465 Patent.

25. Defendant's unauthorized use, offer for sale, sale, and importation into the United States of its product, has caused, and will continue to cause, Zhaozhao financial and reputational harm. In violation of 35 U.S.C Section 271, Defendant has infringed and continues to infringe the 'D465 Patent by using, offering for sale, selling and/or importing into the United States at least its product identified in this Complaint, which employs the designs covered by the 'D465 Patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests:

- A. A Judgment that Defendant has infringed, infringes, and continues to infringe the 'D465 Patent;
 - B. A finding that Zhaozhao has no adequate remedy at law and an order and judgment permanently enjoining Defendant, its parent companies, subsidiaries, related companies, and all persons acting in concert or participation with Defendant, or persons acting or purporting to act on its behalf, including, but not limited to its officers, directors, partners, owners, agents, representatives, employees, attorneys, successors, and assigns, and any and all persons acting in concert or privity with them, from making, using, importing, exporting, distributing, supplying, selling or offering to sell, or causing to be sold any product falling within the scope of the 'D465 Patent, or otherwise contributing to or inducing the infringement of the 'D465 Patent;
 - C. A judgment ordering the recall and destruction of all materials within the control of Defendant, its parent companies, subsidiaries, or related companies, and their agents or distributors, that in any way infringe upon the 'D465 Patent;

- 1 D. An award of damages to adequately compensate Zhaozhao for Defendant's patent
- 2 infringement, such damages to be determined by a jury, and an accounting to
- 3 adequately compensate Zhaozhao for the infringement;
- 4 E. An order finding that this is an exceptional case under 35 U.S.C. § 28 and awarding
- 5 Zhaozhao attorneys' fees;
- 6 F. Costs and expenses in this action;
- 7 G. An award of prejudgment and post-judgment interest; and
- 8 H. Such other further relief, in law or equity, as this Court deems just and proper.

9 **DEMAND FOR JURY TRIAL**

10 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Zhaozhao respectfully
11 demands a trial by jury on all issues triable by jury.

12
13 Dated: August 29, 2022

14 PILLSBURY WINTHROP SHAW PITTMAN LLP

15
16 By: /s/ David J. Tsai

17 Attorneys for Plaintiff
18 Xiamen Zhaozhao Trading Co., Ltd.
19
20
21
22
23
24
25
26
27
28